

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SILVIA SEIJAS et al., :
: .
Plaintiffs, : .
:
- against - : .
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OPINION
REPUBLIC OF ARGENTINA, :
: .
Defendant. : .
-----x
SILVIA SEIJAS et al., :
: .
Plaintiffs, : .
:
- against - : .
:
04 Civ. 400 (TPG)
REPUBLIC OF ARGENTINA, :
: .
Defendant. : .
-----x
CESAR RAUL CASTRO, :
: .
Plaintiff, : .
:
- against - : .
:
04 Civ. 506 (TPG)
REPUBLIC OF ARGENTINA, :
: .
Defendant. : .
-----x
HICKORY SECURITIES, LTD., :
: .
Plaintiff, : .
:
- against - : .
:
04 Civ. 936 (TPG)
REPUBLIC OF ARGENTINA, :
: .
Defendant. : .
-----x

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CLAUDIA FLORENCIA VALLS et al., :
:
Plaintiffs, :
:
- against - : 04 Civ. 937 (TPG)
:
REPUBLIC OF ARGENTINA, :
:
Defendant. :
-----x
ELIZABETH ANDREA AZZA et al., :
:
Plaintiffs, :
:
- against - : 04 Civ. 1085 (TPG)
:
REPUBLIC OF ARGENTINA, :
:
Defendant. :
-----x
EDUARDO PURICELLI, :
:
Plaintiff, :
:
- against - : 04 Civ. 2117 (TPG)
:
REPUBLIC OF ARGENTINA, :
:
Defendant. :
-----x
RUBEN DANIEL CHORNY, :
:
Plaintiff, :
:
- against - : 04 Civ. 2118 (TPG)
:
REPUBLIC OF ARGENTINA, :
:
Defendant. :
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On May 24, 2010, plaintiffs obtained *ex parte* restraining notices and a writ of execution directed to “property of Argentina” and property “in which the judgment debtor Argentina has an interest.” The orders purport to reach assets in the amount of more than \$2.2 billion. The restraining notices were directed to garnishees Banco de la Nación Argentina (“BNA”) and HSBC Bank.

The Republic moved to vacate the May 24 orders on June 8, 2010. The motion is granted.

Republic’s Assets Held by BNA

EM Ltd. and NML Capital Ltd., plaintiffs in other Argentine bond cases, hold orders attaching and restraining the only identified account of the Republic held by BNA in the United States—approximately \$3.2 million held on behalf of the Agencia Nacional de Promoción Científica y Tecnología (the “ANPCT Account”). The court signed the orders on September 12, 2008, and confirmed them in two subsequent opinions. The ANPCT Account has been frozen since September 2008, when EM and NML first obtained attachment and restraining orders. EM and NML have judgments and potential judgments for amounts far in excess of \$3.2 million.

A restraining notice served on a garnishee is only effective if the garnishee has property belonging to the judgment debtor when served. The property of the Republic held by BNA was already attached and restrained by EM and NML at the time of the May 24 application by the

Seijas plaintiffs. To the extent that the ANPCT Account is ultimately executed upon, it will be used entirely to satisfy EM and NML's prior process.

BNA Assets

The Seijas plaintiffs argue that their process reaches BNA itself—the BNA branch in New York and assets of BNA connected with that branch. These plaintiffs base their argument on the theory that BNA is the alter ego of the Republic and thus is liable for the Republic's defaulted bond indebtedness and liable on judgments against the Republic.

On March 28, 2011, the court held that BNA is not an alter ego of the Republic in 10 Civ. 4300. Thus, the May 24 orders cannot reach any BNA assets.

HSBC

In a related action, HSBC recently filed a garnishee statement in response to restraining notices filed by other plaintiffs. HSBC identified no property of the Republic. HSBC's statement identified one account of an AFJP, whose property is immune from execution. See Aurelius Capital Partners, LP v. Republic of Arg., 584 F.3d 120 (2d Cir. 2009).

Conclusion

The motion to vacate the May 24 orders is granted. This resolves the motions listed as document numbers 174 in case 04 Civ. 400; 97 in

04 Civ. 401; 93 in 04 Civ. 506; 95 in 04 Civ. 936; 94 in 04 Civ. 937, 04
Civ. 1085, and 04 Civ. 2117; and 84 in 04 Civ. 2118.

SO ORDERED.

Dated: New York, New York
March 29, 2011



Thomas P. Griesa
U.S.D.J.

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| DOCUMENT |
| ELECTRONICALLY FILED |
| DOC #: |
| DATE FILED: <u>03/29/11</u> |